



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 · Tel: (+27 12) 315 5111

Enquiries: J Soobramanian Ref: Cir1/2/1/2/2 Tel: 315 5336 Fax: 315 5343
e-mail: jeyrel.soobramanian@treasury.gov.za

**TO :ACCOUNTING OFFICERS OF ALL NATIONAL AND
PROVINCIAL DEPARTMENTS AND CONSTITUTIONAL
INSTITUTIONS**

**:ACCOUNTING OFFICERS OF ALL MUNICIPALITIES AND
MUNICIPAL ENTITIES**

**:ACCOUNTING AUTHORITIES OF ALL SCHEDULE 2 AND 3
PUBLIC ENTITIES**

:HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES

SUPPLY CHAIN MANAGEMENT

**IMPLEMENTATION GUIDE: PREFERENTIAL PROCUREMENT
REGULATIONS, 2011 PERTAINING TO THE PREFERENTIAL PROCUREMENT
POLICY FRAMEWORK ACT, ACT NUMBER 5 OF 2000.**

1. PURPOSE

1.1 The attached Guide is intended to assist accounting officers (AOs) and accounting authorities (AAs) with the implementation of the Preferential Procurement Regulations, 2011.

2. BACKGROUND

2.1 The Preferential Procurement Regulations, 2011 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 (PPPFA) was promulgated by the Minister of Finance on 8 June 2011 in Government Gazette No 34350. These Regulations, which will come into effect on 7 December 2011, have been aligned with the aims of the Broad-Based Black Economic Empowerment Act and its Codes of Good Practice.

2.2 The Preferential Procurement Regulations apply to organs of state as contemplated in section 1 (iii) of the PPPFA and all public entities listed in schedules 2, 3A, 3B, 3C and 3D to the Public Finance Management Act, 1999, Act No 1 of 1999 (as amended by Act 29 of 1999) and municipal entities.

- 2.3 With effect from 7 December 2011, AOs and AAs are required to invite, evaluate and award bids in terms of the prescripts of the PPPFA and the Preferential Procurement Regulations, 2011.
- 2.4 To this end, the National Treasury, in consultation with the Department of Trade and Industry (dti), has issued the attached Guide and bidding documents with the objective of assisting AOs and AAs with the smooth implementation of the Regulations.
- 2.5 The Guide and supporting bidding documents should be read and utilized by AOs and AAs together with other relevant SCM related prescripts, instructions, circulars and guidelines.
- 2.6 The Guide is not a substitute for legislation and should not be used for legal interpretations.

3 BIDDING DOCUMENTS

- 3.1 The bidding documents alluded to in paragraph 2.5 above refer to **Standard Bidding Documents (SBDs)** for use by all national and provincial departments, constitutional institutions and public entities listed in schedules 3A and 3C to the Public Finance Management Act; (PFMA) and **Municipal Bidding Documents (MBDs)** for use by all municipalities and municipal entities to which the Municipal Finance Management Act apply.
- 3.2 These bidding documents, which have been amended where necessary in accordance with the prescripts of the Preferential Procurement Regulations, 2011, are attached together with the Guide for use by AOs and AAs.
- 3.3 Although the SBDs or MBDs have not been formally issued to Public Entities listed in schedules 2, 3B and 3D to the PFMA, nothing prohibits these entities from customizing and utilizing the bidding documents as well.

4 INVITATION AND EVALUATION OF BIDS BASED ON A STIPULATED MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT AND INSTRUCTIONS, CIRCULARS AND GUIDELINES PERTAINING THERETO.

- 4.1 Regulations 9.(1) and 9.(3) of the Preferential Procurement Regulations, 2011, make provision for AOs and AAs to promote local production and content in the invitation and evaluation of bids. This is intended to meet with the New Growth Path (NGP) and Industrial Policy Action Plan (IPAP) objectives.
- 4.2 Regulations 9 (1) stipulates that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a

stipulated minimum threshold for local production and content will be considered.

4.3 To this end, the dti has designated the following sectors as contemplated in Regulation 9 (1) of the Preferential Procurement Regulations:

- Textile, clothing, leather and footwear;
- Steel and power pylons;
- Rolling stocks;
- Canned / processed vegetables; and
- Buses (Bus body).

4.4 Regulation 9.(3) furthermore stipulates that where there is no designated sector, a specific bidding condition may be included, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

4.5 The National Treasury, in consultation with the dti, is in the process of issuing instructions, circulars and guidelines to give effect to the provisions that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered for both designated and non-designated sectors.

4.6 These instructions, circulars and guidelines would provide among others processes that may be followed in the invitation, evaluation and award of such bids to optimize value for money and also details of the stipulated minimum thresholds for local production and content for the different sectors.

4.7 For this purpose, the SBD / MBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.

5 APPLICABILITY

5.1 This circular applies to all national and provincial departments, constitutional institutions, public entities listed in schedules 2 and 3 to the PFMA and municipalities and municipal entities to which the MFMA applies.

6. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

6.1 Heads of provincial treasuries are requested to bring the contents of this circular to the attention of accounting officers and supply chain management officials of their respective provincial departments.

6.2 Accounting officers of national and provincial departments are requested to bring the contents of this circular to the attention of accounting

authorities and the supply chain management officials of Schedule 3A and 3C public entities reporting to their respective executive authorities.

- 6.3 Accounting officers of municipalities and municipal entities are requested to bring the contents of this circular to the attention of the supply chain management officials of their municipalities and municipal entities.
- 6.4 Accounting authorities of Schedule 2, 3B and 3D public entities are requested to bring the contents of this circular to the attention of the supply chain management officials of their public entities.

7. CONTACT INFORMATION

Mr Jeyrel Soobramanian

Director: Norms and Standards

Tel. No: 012 315 5336

E-mail: jeyrel.soobramanian@treasury.gov.za


JAN BREYTENBACH

CHIEF DIRECTOR: NORMS AND STANDARDS

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